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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/598,734

02/05/2007

Karl Freudelsperger

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06/18/2010

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EXAMINER

WEEKS, GLORIA R

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

06/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/598,734 | Applicant(s) FREUDELSPERGER, KARL | |
| | Examiner GLORIA R. WEEKS | Art Unit 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment and remarks received on June 3, 2010.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 3, 2010 has been entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-17, 19-21 and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegel et al. (USPN 7,334,379) in view of Schoonen et al. (USPN 6,152,364).

In reference to claims 1-4, 6-17, 19-21 and 24-30, Siegel al. discloses a method and system for filling containers 45 with tablets, the system comprising: a reception means 12 (column 2 lines 38-41, 59-63; column 3 lines 18-33) ; a tablet dispensing station 80 including a plurality of tablet type automatic dispensers 82, 84, 86 each having a common magazine; allocation means (not shown) designed for determining from the data entered in the reception means the number of tablets of the respective types of tables to be allocated to a respective tablet

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container and the availability of the tablets (column 1 line 59-column 2 line 1, 31-49; column 4 lines 27-30); tablet container closing means 40; a tablet container filling system 32, 47 having structure to support an information carrier 32 and a tablet container conveyor 44; information carrier 32 including a bar-code and consumption instructions; an information carrier reader 42 that confirms supply of tablets in tablet dispenser prior to packaging/sealing of tablets in tablet container 83 (column 7 lines 4-6); a rejection station 43 that removes improperly filled tablet containers (removes all containers, including improperly filled containers); and an accumulation station 65, 88 that collects all tablets required to fill an order.

Although Siegel et al. discloses a method including the step of dosing a prescription order specific to a patient, wherein the order is initially reviewed by a pharmacist (column 1 lines 45-47), Siegel et al. does not disclose a "plausibility check" of the filled prescription as defined on page 3 paragraph 4 of Applicant's specification. Schoonen et al. teaches a method of filling a prescription using an automated system, wherein a plausibility check is made on prescription data entered into that data input system of the automated system (column 3 lines 1-14). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Siegel et al. to include a plausibility check, since column 3 line 1 and lines 12-14 of Schoonen et al. state that such a modification prevents unnecessary mistakes, specifically the inappropriate combination of tablets/medications.

5. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegel et al. (USPN 7,334,379) in view of Schoonen et al. (USPN 6,152,364) as applied to claim 11, and further in view of Kim (USPN 6,449,921).

Regarding claims 22 and 23, Siegel et al. discloses a method and system for filling containers with tablets, comprising a tablet dispensing station 80 including a plurality of tablet type automatic dispensers 82, 84, 86 each having a common magazine. Siegel et al. discloses a variety of automatic dispensers to be oriented in a stationary magazine, such that each dispenser contains a respective type of tablet to be dispensed to a common accumulation section. Kim teaches a method and system for filling containers with tablets, the system comprising: a reception means 51; a tablet dispensing station including at least one automatic dispensers 44 of a plurality of types of tablets having a common magazine 16 with replaceable buffer containers 52, and a rotary dispenser 14; allocation means 12 designed for determining from the data entered in the reception means 51 the number of tablets of the respective types of tables to be allocated to a respective tablet container 68; tablet container closing means 76. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method and system of Siegel et al. to include a rotary dispenser, since 1 lines 33-49 of Kim states that such a modification is space efficient and improves tablet supply performance.

Response to Arguments

6. Applicant's arguments, see pages 10-12, filed June 3, 2010, with respect to the rejection(s) of claim(s) 1-4, 6-17, 19-21 and 24-30 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Siegel et al. (USPN 7,334,379) in view of Schoonen et al. (USPN 6,152,364).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The examiner can normally be reached on M-Th 8am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

/Gloria R. Weeks/

Examiner, Art Unit 3721

/Rinaldi I Rada/

Supervisory Patent Examiner, Art Unit
3721

June 18, 2010